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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/057,259

Filing Date: October 25, 2001

Appellant(s): JAKUBIEC, CHRISTOPHER M.

JAKUBIEC, CHRISTOPHER M.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/4/06 appealing from the Office action
mailed 10/31/05.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Eden (U.S. Patent Publication 2002/0184361).

For claim 1, Eden teaches, an apparatus, comprising:

a scoreboard (Eden, paragraphs 32, Graphical User Interface (GUI)) comprising a plurality of locations adapted to store transaction identifiers each associated with a transaction, wherein a each transaction comprises a first client sending a request to a second client (Eden, paragraphs 34, querying device (2nd client) computer with GUI (1st Client) query if device is available (transaction)), and wherein each transaction identifier includes a first timer flag and a second timer flag; (Eden, paragraph 40, 41, 47, 4 types of timeouts possible ARP time out (address resolution protocol time out, if not response received from that address no device available at that address), TCP SYN (TCP/IP protocol synchronization protocol, after starting a connection if SYN of further data is not request the connection to the device may timeout waiting to response), ACK timeout

(acknowledgement if confirmation that the data that has been said has not been received, timeout that receiving client is not receiving data), DNS query timeout (Domain Name Service query, a request for a name (i.e. www.google.com) conversion to an address (i.e. 192.168.11.1) is not received in an appropriately expected amount of time the system times out, the DNS server may not be available)

and a device adapted to manage the plurality of transaction identifiers in the scoreboard. (Eden, paragraph 30, the gui interface is the one the querying device is the device adapted to manage the scoreboard)

For claim 2, Eden teaches, the apparatus of claim 1, wherein the device comprises a timer adapted to approximately synchronously compare the length of time the transaction identifiers remain in the scoreboard to a predetermined latency period. (Eden, figure35, real time response is the approximately synchronously)

For claim 3, Eden teaches, the apparatus of claim 2, wherein the timer is a free-running timer. (Eden, paragraph 45 the free running timer is the timer within the thread, for the query)

For claim 4, Eden teaches, the apparatus of claim 3, wherein the free-running timer is a cyclical free-running timer adapted to return to a zero-point after the predetermined latency period. (Eden, paragraph 43 the zero-point is the time out)

For claim 5, Eden teaches, the apparatus of claim 4, wherein the predetermined latency period ranges approximately from 6 nanoseconds to 28 seconds. (Eden, figure 58 0.5 seconds is within the predetermined latency of 6 nanoseconds to 28 seconds)

For claim 6, Eden teaches, the apparatus of claim 2, wherein the device further comprises a fill-code generator adapted to initiate a time-out sequence. (Eden, paragraphs 49, 50 the function is the fill-code generator adapted to initiate a time-out sequence)

For claim 7, Eden teaches, the apparatus of claim 6, wherein the fill-code generator is adapted to initiate the time-out sequence when the timer notifies the fill-code generator that at least one of the transaction identifiers has remained in the scoreboard longer than the predetermined latency period. (Eden, paragraphs 49, 50 the function is the fill-code generator adapted to initiate a time-out sequence)

For claim 8, Eden teaches, the apparatus of claim 7, wherein the fill-code generator is adapted to create a fill code and transmit the fill code to the first client when notified that at least one of the transaction identifiers has remained in the scoreboard longer than the predetermined latency period. (Eden, paragraphs 49, 50 the function is the fill-code generator adapted to initiate a time-out sequence)

For claim 9, Eden teaches, the apparatus of claim 8, wherein the fill-code generator is further adapted to notify the client that a time-out occurred. (Eden, paragraphs 49, 50 the function is the fill-code generator adapted to initiate a time-out sequence)

For claim 10, Eden teaches, the apparatus of claim 1, wherein the transaction identifiers further include a client ID and a client tag. (Eden, paragraph 32)

For claim 11, Eden teaches, the apparatus of claim 1, wherein the first client is at least one of a processor, a memory, and an I/O device. (Eden, paragraph 29)

For claim 12, Eden teaches, the apparatus of claim 1, wherein the second client is at least one of a processor, a memory, and an I/O device. (Eden, paragraph 29)

Claims 13-18 list all the same elements of claims 1-12. Therefore, the supporting rationale of the rejection to claim 1 applies equally as well to claim 15.

For claim 19, Eden teaches, a method, comprising:
storing at least one transaction identifier in at least one of a plurality of locations in a scoreboard (Eden, paragraphs 32, Graphical User Interface (GUI)), wherein the at least one transaction identifier is associated with a transaction, wherein each transaction comprises a first client sending a request to a second client in a system

(Eden, paragraphs 34, querying device (2nd client) computer with GUI (1st Client) query (transaction)), and wherein each transaction identifier includes a first timer flag and a second timer flag; (Eden, paragraphs 32, 34, 40, 47, time out period)

timing a selected duration; (Eden, paragraph 40, timeout)

and initiating a time-out sequence if the selected duration is substantially longer than a predetermined latency period. (Eden, paragraphs 41, 49, 50, time out is longer then immediate response)

For claim 20, Eden teaches, the method of claim 19, wherein timing the selected duration comprises comparing a period of a free running timer to approximately the length of time a transaction identifier remains in the scoreboard. (Eden, paragraphs 34,49)

For claim 21, Eden teaches, the method of claim 20, wherein comparing comprises detecting transaction identifiers that have been stored in the scoreboard during a previous period of the free-running timer. (Eden, paragraph 50)

For claim 22, Eden teaches, the method of claim 21, wherein detecting transaction identifiers that have been stored in the scoreboard during a previous period of the free-running timer comprises examining the first timer flag when the free-running timer reaches a zero point. (Eden, paragraphs 34, 49)

For claim 23, Eden teaches, the method of claim 22, wherein detecting transaction identifiers that have been stored in the scoreboard during a previous period of the free-running timer further comprises setting the first timer flag when the first timer flag has not been set and setting the second timer flag when the first timer flag has been set. (Eden, paragraph 47)

For claim 24, Eden teaches, the method of claim 23, wherein comparing further comprises determining when a transaction identifier has been stored in the scoreboard for substantially longer than one cycle of the free-running timer. (Eden, paragraphs 50, 32)

For claim 25, Eden teaches, the method of claim 24, wherein determining when a transaction identifier has been stored in the scoreboard for substantially longer than one cycle of the free-running timer comprises determining if the second timer flag has been set when the free-running timer reaches the zero point. (Eden, paragraph 47)

For claim 26, Eden teaches, the method of claim 19, wherein timing the selected duration comprises comparing a period of a free running timer to approximately the length of time since the first client sent the request. (Eden, paragraphs 47)

For claim 27, Eden teaches, the method of claim 19, wherein initiating a time-out sequence comprises notifying a fill-code generator that the transaction identifier in at

least one location has remained in the scoreboard for substantially more than one period of the free-running timer. (Eden, paragraph 50)

For claim 28, Eden teaches, the method of claim 27, wherein initiating a time-out sequence further comprises generating a fill code. (Eden, paragraphs 49,50)

For claim 29, Eden teaches, the method of claim 28, wherein initiating a time-out sequence further comprises transmitting the fill code to the first client. (Eden, paragraphs 49, 50)

For claim 30, Eden teaches, the method of claim 29, wherein initiating a time-out sequence further comprises notifying the first client that a time-out has occurred. (Eden, paragraphs 32, 47, 49, 50)

For claim 31, Eden teaches, a method, comprising:
storing at least one transaction identifier in at least one of a plurality of locations in a scoreboard, wherein the at least one transaction identifier is associated with a transaction, wherein each transaction comprises a first client requesting data from a second client in a system, and wherein each transaction identifier includes a first timer flag and a second timer flag; (Eden, paragraphs 32, 34, 35, 47)

detecting approximately synchronously transaction identifiers that have been stored in the scoreboard during the previous period of a free-running timer having a period approximately equal to a predetermined latency period; (Eden, paragraph 58)

determining approximately synchronously when at least one of the transaction identifiers has been stored in the scoreboard for substantially longer than one cycle of the free-running timer; (Eden, paragraph 32)

and initiating approximately synchronously a time-out sequence if the transaction identifier remains in the scoreboard substantially longer than the predetermined latency period. (Eden, paragraph 32)

For claim 32, Eden teaches, the method of claim 31, wherein detecting transaction identifiers that have been stored in the scoreboard during a previous period of the free-running timer comprises examining a first timer flag when the free-running timer reaches a zero point. (Eden, paragraph 49,50)

For claim 33, Eden teaches, the method of claim 32, wherein detecting transaction identifiers that have been stored in the scoreboard during a previous period of the free-running timer further comprises setting the first timer flag when the first timer flag has not been set and setting the second timer flag when the first timer flag has been set. (Eden, figures 49, 50, 47)

For claim 34, Eden teaches, the method of claim 31, wherein determining when a transaction identifier has been stored in the scoreboard for substantially longer than one cycle of the free-running timer comprises determining if the second timer flag has been set when the free-running timer reaches the zero point. (Eden, paragraph 47, 49, 50)

For claim 35, Eden teaches, the method of claim 31, wherein initiating a time-out sequence comprises notifying a fill-code generator that the transaction identifier in at least one location has remained in the scoreboard for substantially more than one period of the free-running timer. (Eden, paragraph 47, 49, 50)

For claim 36, Eden teaches, the method of claim 35, wherein initiating a time-out sequence further comprises generating a fill code and transmitting the fill code to the first client. (Eden, paragraph 49, 50)

For claim 37, Eden teaches, the method of claim 36, wherein initiating a time-out further comprises notifying the first client that a time-out has occurred. (Eden, paragraph 47, 49, 50, 32)

For claim 38, Eden teaches, the apparatus as recited in claim 3, wherein the free-running timer is configured to examine the first timer flag when the free-running timer reaches a zero point. (Eden, paragraphs 49, 50)

For claim 39, Eden teaches, the apparatus as recited in claim 38, wherein the free-running timer is configured to set the first timer flag when the first timer flag has not been set and the second timer flag when the first time flag has been set. (Eden, paragraph 47, 49, 50)

For claim 40, Eden teaches, the apparatus as recited in claim 39, wherein the free-running timer is configured to determine when a transaction identifier has been stored in the scoreboard for substantially loner than one cycle of the free-running timer by examining the timer flag. (Eden, paragraph 32)

For claim 41, Eden teaches, the apparatus as recited in claim 14, wherein the free-running timer is configured to examine the first timer flag when the free-running timer reaches a zero point. (Eden, paragraph 47, 49, 50)

For claim 42, Eden teaches, the apparatus as recited in claim 41, wherein the free-running timer is configured to set the first timer flag has not been set and the set the second timer flag when the first timer flag as been set. (Eden, paragraphs 47, 49, 50)

For claim 43, Eden teaches, the apparatus as recited in claim 42, wherein the free-running timer is configured to determine when a transaction identifier has been stored in the scoreboard for substantially longer than one cycle of the free-running timer by examining the second timer flag. (Eden, paragraph 32)

(10) Response to Argument

A) Appellant argues that Eden fails to teach “transaction identifies each associated with a transaction … wherein each transaction identifier includes a first timer and a second timer flag.” Appellant provides further support for his argument “However, nowhere does Eden provide any teaching or suggestion that identifiers discussed therein are associated with anything other than a device.”

Examiner disagrees with appellant’s interpretation of Eden specifically, Eden disclose (figure 5) the availability of device which are based upon queries to the device to identify if the device is available (paragraph 47) if queries timeout device is not available and a X is place over the device signifying the device is not available (figure 5). Additionally figure 8 shows that the GUI interface displays the result of the query (true available, false not available and query has timed-out), based on if the query times-out the GUI is updated.

B) Appellant argues “Eden fails to teach include a first timer flag and a second timer flag.”

Examiner cited paragraph 47 in which Eden discuss 4 types of time-outs possible (ARP time out (address resolution protocol time out, if not response received from that address no device available at that address), TCP SYN (TCP/IP protocol synchronization protocol, after starting a connection if SYN of further data is not request the connection to the device may timeout waiting to response), ACK timeout

(acknowledgement if confirmation that the data that has been said has not been received, timeout that receiving client is not receiving data), DNS query timeout (Domain Name Service query, a request for a name (i.e. www.google.com) conversion to an address (i.e. 192.168.11.1) is not received in an appropriately expected amount of time the system times out, the DNS server may not be available). Therefore from the cited paragraph is 4 timer flags more the 2 timer flag currently required by the present claim limitation.

C) Appellant argues Eden does not teach or suggest “transaction identifiers, each associated with a transaction,” examiner in Eden shows transaction identifiers in figure 5, in which the pictures of the device represent the query to the device, therefore it is the transaction identifier (paragraph 34). Further appellant argues Eden does not teach “querying device manages a plurality of transaction identifiers,” at present the current limitation does not appear in the claim limitations. Appellant also discuss that this argument was not addressed in the advisory action, it was not addressed because the argument is not addressing present claim limitations.

Examiner is able to find “a device adapted to manage the plurality of transaction identifiers in the scoreboard,” this limitation is different then what appellant is arguing which Eden teaches in figures 5, 6, and 8 in which Eden shows that the transaction identifiers are managed when the device become unavailable it is marked as unavailable, and therefore managed.

D) For claim 13-18 and 41-43 appellant argues the following: the entirety of claim 13, "transaction identifiers each associated with a transaction ... wherein each transaction identifier includes a first timer flag and a second timer flag," Eden representation of transaction identifiers as devices, "include a first timer flag and a second timer flag," "teach a timer adapted to compare the length of time the transaction identifiers remain in the scoreboard to predetermined latency period," "when notified that at least one transaction identifier has remained in the scoreboard for substantially longer than the predetermined latency period."

Examiner would like to note majority of these arguments are repeats of issues addressed above. In response to appellant general refutation of Eden examiner will address all more detailed arguments which overcomes the general argument of anticipation. Appellant argues "Eden fails to teach include a first timer flag and a second timer flag." Examiner cited paragraph 47 in which Eden discuss 4 types of time-outs possible (ARP time out (address resolution protocol time out, if not response received from that address no device available at that address), TCP SYN (TCP/IP protocol synchronization protocol, after starting a connection if SYN of further data is not request the connection to the device may timeout waiting to response), ACK timeout (acknowledgement if confirmation that the data that has been said has not been received, timeout that receiving client is not receiving data), DNS query timeout (Domain Name Service query, a request for a name (i.e. www.google.com) conversion to an address (i.e. 192.168.11.1) is not received in an appropriately expected amount of time the system times out, the DNS server may not be available)). Therefore from the

cited paragraph is 4 timer flags more the 2 timer flag currently required by the present claim limitation. Further appellant argues “teach a timer adapted to compare the length of time the transaction identifiers remain in the scoreboard to predetermined latency period,” the term time-out is well known to mean “An event that indicates that a predetermined amount of time has elapsed without some other expected event taking place.” Microsoft Press Computer Dictionary Third Edition 1997, therefore it is clear from the definition that the time out Eden discloses in paragraph 47, ACK time-out teaches the limitation that appellant is arguing. Additionally applicant argues the limitation “when notified that at least one transaction identifier has remained in the scoreboard for substantially longer than the predetermined latency period.” Which Eden also teaches in paragraph 47, since the ACK time-out occurs when an acknowledgement is expected after the latency period and is not received therefore the device is not received is therefore a X is placed over the device on the GUI (scoreboard) in figure 5. Therefore in conclusion the Examiner has addressed all arguments for claims 13-18 and 41-43 overcoming appellant’s arguments showing anticipation for claim 13 by Eden.

E) For claim 19-30 again appellant repeats arguments that are addressed above. Appellant argues overall Eden’s failure to teach claim 19, which is addressed, in the following response to other arguments addressing feature of claim 49. Appellant argues, “storing at least one transaction identifier in at least one of a plurality of location in a scoreboard.”

Eden shows transaction identifiers in figure 5, in which the pictures of the device represent the query to the device, therefore it is the transaction identifier (paragraph 34). Appellant then argues that "include a first timer flag and a second timer flag." Examiner cited paragraph 47 in which Eden discuss 4 types of time-outs possible (ARP time out (address resolution protocol time out, if not response received from that address no device available at that address), TCP SYN (TCP/IP protocol synchronization protocol, after starting a connection if SYN of further data is not request the connection to the device may timeout waiting to response), ACK timeout (acknowledgement if confirmation that the data that has been said has not been received, timeout that receiving client is not receiving data), DNS query timeout (Domain Name Service query, a request for a name (i.e. www.google.com) conversion to an address (i.e. 192.168.11.1) is not received in an appropriately expected amount of time the system times out, the DNS server may not be available). Therefore from the cited paragraph is 4 timer flags more the 2 timer flag currently required by the present claim limitation. Therefore examiner has overcome appellant's argument's addressing claim 19-30 showing that Eden anticipates claim 19-30.

F) For claims 31-37 again appellant repeats arguments that re addressed above. Appellant argues claim 31 overall. Appellant argues examiner interpretation of "transaction identifier in at least one of a plurality of location in a scoreboard." Examiner disagrees with appellant's interpretation of Eden specifically, Eden disclose (figure 5) the availability of device which are based upon queries to the device

to identify if the device is available (paragraph 47) if queries timeout device is not available and a X is place over the device signifying the device is not available (figure 5). Additionally figure 8 shows that the GUI interface displays the result of the query (true available, false not available and query has timed-out), based on if the query times-out the GUI is updated. Further appellant argues “include a first timer flag and a second timer flag.” Examiner cited paragraph 47 in which Eden discuss 4 types of time-outs possible (ARP time out (address resolution protocol time out, if not response received from that address no device available at that address), TCP SYN (TCP/IP protocol synchronization protocol, after starting a connection if SYN of further data is not request the connection to the device may timeout waiting to response), ACK timeout (acknowledgement if confirmation that the data that has been said has not been received, timeout that receiving client is not receiving data), DNS query timeout (Domain Name Service query, a request for a name (i.e. www.google.com) conversion to an address (i.e. 192.168.11.1) is not received in an appropriately expected amount of time the system times out, the DNS server may not be available). Therefore from the cited paragraph is 4 timer flags more the 2 timer flag currently required by the present claim limitation. Additionally appellant argues “detecting approximately synchronously traction identifiers that have been stored in the scoreboard during the previous period of free-running timer having a period approximately equal to a predetermined latency period, or determining approximate synchronously when at least one of the transaction identifier has been store in the scoreboard for substantially longer than one cycle of free-running timer.” Eden in paragraph 47 referrs to DNS query timeout, which if a

query is sent to a DNS server and if no response if not received in the expected one-cycle a DNS time-out occurs. Therefore Eden does teach "detecting approximately synchronously traction identifiers that have been stored in the scoreboard during the previous period of free-running timer having a period approximately equal to a predetermined latency period, or determining approximate synchronously when at least one of the transaction identifier has been store in the scoreboard for substantially longer than one cycle of free-running timer." Additionally appellant argues with the previous limitation the time the transaction identifier is on the scoreboard. Eden discloses in figures 6, 7 and 8 upon verification of all transaction identifier (queries) the GUI is redrawn showing changes to the device, therefore not transaction identifier is displayed longer the one-cycle because the GUI is redrawn after each verification (paragraph 45).

Therefore in conclusion examiner has address all of appellant arguments and therefore clearly shows that Eden anticipates the claims 1-43 of the present application.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ajay Bhatia

Conferees:



JASON CARDONE
SUPERVISORY PATENT EXAMINER



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER